

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )

COLOMBO BANK )  
Rockville, Maryland )

OTS Docket No.: 08575 )  
\_\_\_\_\_ )

Order No.: ATL-2004-23

ATL-2004-24

Date: August 31, 2004

**STIPULATION AND CONSENT TO THE ISSUANCE OF AN**  
**ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF**  
**AND AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

**WHEREAS**, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding for affirmative relief and the assessment of a civil money penalty against Colombo Bank, Rockville, Maryland, OTS Docket No. 08575 (Colombo or Bank) pursuant to 12 U.S.C. § 1818(b) and (i),<sup>1</sup> and

**WHEREAS**, Colombo desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding, and

**WHEREAS**, Colombo enters into this Stipulation and Consent (i) without any adjudication on the merits, (ii) without admitting or denying that grounds exist to initiate an administrative cease and desist proceeding, (iii) without admitting or denying the Findings of Fact, except as to Jurisdiction (Paragraph 1 below), which jurisdiction is

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<sup>1</sup> All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.

admitted, and (iv) solely for the purpose of settling this matter in accordance with Rule 408 of the Federal Rules of Evidence and equivalent state provisions.

**NOW, THEREFORE**, on these premises, Colombo hereby stipulates and agrees as follows:

**1. Jurisdiction.**

(a) Colombo is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" with jurisdiction to maintain an administrative cease and desist proceeding and to assess civil money penalties against such a savings association. Therefore, the Bank is subject to the jurisdiction of the OTS to initiate and maintain a cease and desist proceeding and to assess civil money penalties against it pursuant to 12 U.S.C. §§ 1818(b) and (i). The Director of the OTS has delegated to the Regional Director of the Southeast Region of the OTS or his/her designee (Regional Director) the authority to issue cease and desist orders and civil money penalty assessment orders where an association has consented to the issuance of the orders.

**2. OTS Findings of Fact.**

(a) The OTS finds that the Bank has engaged in certain unsafe and unsound practices and violated various laws and regulations to which the Bank is subject, as outlined in detail in the OTS's April 26, 2004 Report of Examination of Colombo (2004 Examination). Such violations include violations of the Bank Secrecy Act (BSA),<sup>2</sup> the

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<sup>2</sup> 31 U.S.C. § 5311 et seq.

Home Mortgage Disclosure Act (HMDA),<sup>3</sup> the Equal Credit Opportunity Act (ECOA),<sup>4</sup> the Community Reinvestment Act (CRA),<sup>5</sup> the Expedited Funds Availability Act (EFA),<sup>6</sup> the Electronic Funds Transfer Act (EFTA),<sup>7</sup> the Flood Disaster Protection Act (FDPA),<sup>8</sup> the Truth in Lending Act (TILA),<sup>9</sup> the Real Estate Settlement Procedures Act (RESPA),<sup>10</sup> the Bank Protection Act (BPA);<sup>11</sup> the Truth in Savings Act,<sup>12</sup> and the lending limitations for loans made to one borrower (LTOB).<sup>13</sup>

(b) The Bank was criticized for substantive HMDA violations in its immediately preceding OTS examination report, the May 28, 2002 Report of Compliance Examination (2002 Examination or Prior Examination). The Board was instructed to correct these violations and thereafter to comply with applicable HMDA-related laws and regulations. The Board failed to correct the HMDA problems and, in fact, Colombo has engaged in additional violations of HMDA. The Bank also was cited in the Prior Examination for additional violations of other consumer laws and regulations, and instructed by the OTS to correct the violations and thereafter comply with such laws and regulations. The Board failed to take corrective action as mandated by the OTS and additional repetitive violations have occurred.

(c) The Bank was criticized in its 2004 Examination for substantive violations of the BSA. These violations include a lack of independent testing, which was mandated

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<sup>3</sup> 12 U.S.C. § 2801 et seq.

<sup>4</sup> 15 U.S.C. § 1691 et seq.

<sup>5</sup> 12 U.S.C. § 2901 et seq.

<sup>6</sup> 12 U.S.C. § 4001 et seq.

<sup>7</sup> 15 U.S.C. § 1693 et seq.

<sup>8</sup> 42 U.S.C. § 4001 et seq.

<sup>9</sup> 15 U.S.C. § 1601 et seq.

<sup>10</sup> 12 U.S.C. § 2601 et seq.

<sup>11</sup> 12 U.S.C. § 1881 et seq.

<sup>12</sup> 12 U.S.C. § 4301 et seq.

<sup>13</sup> 12 C.F.R. § 563.93.

during the Prior Examination. The 2004 Examination also cited the Bank for inadequate policies and procedures for detecting and reporting suspicious transactions, and failing to conduct and document appropriate training of employees with BSA responsibilities.

(d) The Bank engaged in unsafe and unsound practices as a result of its failure to establish and implement an effective and comprehensive formal written compliance program that included policies, procedures and internal controls to adequately monitor and ensure the Bank's compliance with applicable consumer compliance laws and regulations and the Bank's internal policies and procedures (Compliance Program). The Compliance Program deficiencies have resulted in numerous violations of the consumer compliance related laws and regulations to which the Bank is subject. Based upon the nature and extent of the violations and the Compliance Program deficiencies, the OTS has determined that the Bank is operating a materially deficient Compliance Program.

(e) The Bank failed to correct or address concerns and deficiencies identified in the Colombo's 2002 Examination, as directed by the OTS. The OTS directives to correct deficiencies included establishing a strong system of internal or third party review of all compliance areas, review and retention of the results of such review, and the correction of various other consumer compliance violations and deficiencies.

3. **Consent.** Colombo consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief (C&D Order) and the accompanying Order of Assessment of Civil Money Penalties (CMP Order) (both Orders sometimes collectively referred to as 'the Orders'). The Bank further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all requirements of law.

4. **Finality.** The Orders are issued under 12 U.S.C. §§ 1818(b) and (i), respectively. Upon their issuance by the Regional Director for the Southeast Region, each shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers.** Colombo waives the following:

(a) The right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b);

(b) The right to an administrative hearing of the OTS's charges against it as provided by 12 U.S.C. § 1818(b);

(c) The right to seek judicial review of the C&D Order or the CMP Order or both, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Orders;

(d) Any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Orders, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

(e) The right to assert this proceeding, its consent to the issuance of the Orders or the issuance of the Orders, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. **Other Governmental Actions Not Affected.** Colombo acknowledges and agrees that the consent to the issuance of the Orders does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or

any other proceeding that may be or has been brought by the OTS or another governmental entity.

7. **Reservation of Rights.** Colombo acknowledges that the OTS reserves the right to bring such additional action(s), charge(s), or proceeding(s) arising from or related in any way to the Findings of Fact or any other matter, as the OTS deems appropriate, in its sole discretion.

8. **Miscellaneous.**

(a) The construction and validity of this Stipulation and the Orders shall be governed by the laws of the United States of America;

(b) All references to the OTS in this Stipulation and the Orders shall also mean any of the OTS's predecessors, successors, and assigns;

(c) The section and paragraph headings in this Stipulation and the Orders are for convenience only and shall not affect the construction hereof; and

(d) This Stipulation and the Orders shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

9. **Signature of Directors.** Each Director signing this Stipulation attests that he/she voted in favor of a resolution authorizing the execution of the Stipulation.

**WHEREFORE,** Colombo, by a majority of its directors, executes this Stipulation

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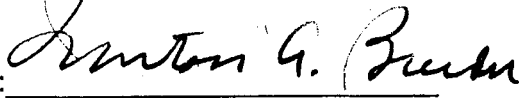
and Consent to the issuance of an Order to Cease and Desist for Affirmative Relief and an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

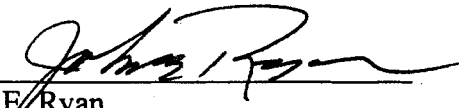
**COLOMBO BANK**


Accepted by a majority of its directors:

**OFFICE OF THRIFT SUPERVISION**


By:

  
Director- **MORTON A. BENDER**

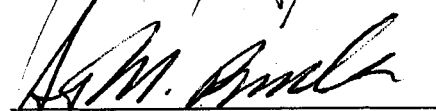
  
John E. Ryan  
Regional Director, Southeast Region

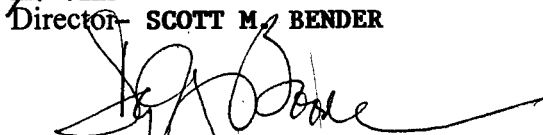
  
Director- **R. HUGH RIAL, JR.**

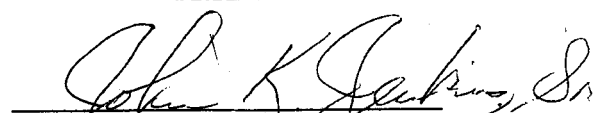
Dated: 8/31/04

  
Director- **JAMES W. PRYOR**

  
Director- **JAMES S. REGAN**

  
Director- **SCOTT M. BENDER**

  
Director- **DARRYL BOONE**

  
Director- **JOHN K. JENKINS, SR.**

"see attached paper"  
Director- **MARK LEAS**

and Consent to the issuance of an Order to Cease and Desist for Affirmative Relief and  
an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

**COLOMBO BANK**

Accepted by a majority of its directors:

By: \_\_\_\_\_

Director- **MORTON A BENDER**

Director- **R. HUGH RIAL, JR.**

Director- **JAMES W. PRYOR**

Director- **JAMES S. REGAN**

Director- **SCOTT M. BENDER**

Director- **DARRYL BOONE**

Director- **JOHN K. JENKINS, SR.**

Director- **MARK LEAS**

**OFFICE OF THRIFT SUPERVISION**

  
John E. Ryan  
Regional Director, Southeast Region

Dated: 8/31/04

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of:

**COLOMBO BANK**  
Rockville, Maryland  
OTS Docket No. 08575

Order No.: **ATL-2004-24**

Dated: **August 31, 2004**

**ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

**WHEREAS**, Colombo Bank, Rockville, Maryland, OTS Docket No. 08575 (Colombo or Bank), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist For Affirmative Relief and an Order of Assessment of Civil Money Penalties (Stipulation); and

**WHEREAS**, Colombo, by executing the Stipulation, has consented and agreed to the issuance of this Order of Assessment of Civil Money Penalties (CMP Order) by the Office of Thrift Supervision (OTS), pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i)<sup>1</sup>; and

**WHEREAS**, the Deputy Director of the OTS, pursuant to delegated authority, has delegated to the Regional Directors of the OTS the authority to issue Orders of Assessment of Civil Money Penalties on behalf of the OTS where the institution that is the subject of the Order has consented to the issuance of the Order.

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<sup>1</sup> All references to the United States Code (U.S.C.) are as amended.

**NOW THEREFORE, IT IS ORDERED** that:

1. Within ten (10) calendar days of the date of this CMP Order, Colombo shall pay the sum of ~~Fourteen Thousand Five Hundred~~ <sup>TEN THOUS</sup> Dollars (~~\$14,500.00~~ <sup>10,000.00</sup>) by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The certified check or bank draft and a copy of the CMP Order shall be delivered by overnight courier, together with a cover letter referencing Colombo Bank, Rockville, Maryland, OTS Docket No. 08575, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552. A copy of the certified check or bank draft and the cover letter shall be provided by U.S. Mail or overnight courier to Karen Bruton, Regional Counsel, Office of Thrift Supervision, 1475 Peachtree St., N.E., Atlanta, GA 30309.

**MISCELLANEOUS PROVISIONS**

**2. Definitions.**

All technical words or terms used in this CMP Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this CMP Order shall, insofar as applicable, have meanings as defined in the FDIA. Any such technical words or terms used in this CMP Order and the Stipulation and undefined in said FDIA shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

**3. Successor Statutes, Regulations, Guidance, and Amendments.**

Reference in this CMP Order and the Stipulation to provisions of statutes, regulations, and OTS Publications shall be deemed to include references to all amendments to such provisions as have been made as of the effective date of this CMP

Order, and references to successor provisions as they become applicable.

**4. Notices.**

(a) Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by the CMP Order to be made upon, given or furnished to, delivered to, or filed with:

(i) OTS, by Colombo, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 1475 Peachtree St., N.E., Atlanta, GA 30309 or telecopied to 404.897.1861 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(ii) First Federal by OTS, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, or sent via overnight delivery service or physically delivered, in each case addressed to Colombo Bank's Board at 14801 Southlawn Lane, Rockville, Maryland 20850 or telecopied to 240.268.2290 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(b) Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service, or telecopy, and upon delivery, if by physical delivery. If

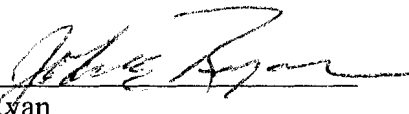
there is a dispute about the date on which a written notice has been received by a party to this CMP Order, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received two business days after the date of the postmark on the envelope in which the notice was enclosed.

**5. Duration, Termination or Suspension of Order.**

This CMP Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the CMP Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional Director, or other authorized representative.

**THE OFFICE OF THRIFT SUPERVISION**

By:

  
John E. Ryan  
Regional Director, Southeast Region